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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BILLINGS DIVISION**

|                                  |                         |
|----------------------------------|-------------------------|
| <b>UNITED STATES OF AMERICA,</b> | <b>CR 17-98-BLG-SPW</b> |
| <b>Plaintiff,</b>                |                         |
| <b>vs.</b>                       | <b>OFFER OF PROOF</b>   |
| <b>RODNEY ALBERTO HAINS,</b>     |                         |
| <b>Defendant.</b>                |                         |

The United States, represented by Assistant U.S. Attorney John D. Sullivan, files the following offer of proof in anticipation of the change of plea hearing set in this case on February 15, 2018.

**THE CHARGES**

The defendant, Rodney Alberto Hains, is charged by indictment in count I

with possession of an unregistered firearm, in violation of 26 U.S.C. § 5861(d), and in count II with witness tampering, in violation of 18 U.S.C. § 1512(b)(1).

### **PLEA AGREEMENT**

There is a plea agreement in this case. The defendant will plead guilty to count I of the indictment. The United States presented all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the Court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 133 (2012).

### **ELEMENTS OF THE CHARGE**

In order for the defendant to be found guilty of possession of an unregistered firearm, in violation of 26 U.S.C. § 5861(d), the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed a shotgun with a barrel of less than 18 inches in length; and

Second, the firearm was not registered to the defendant in the National Firearms Registration and Transfer Record.

### **PENALTIES**

The charge in the indictment carries a maximum punishment of 10 years of imprisonment, a \$10,000 fine, three years of supervised release, and a \$100 special assessment.

## **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:

During the late morning on June 16, 2017, the defendant, Rodney Alberto Hains called the Golden Valley Sheriff's Department to report that someone was trying to give him \$1,500. When an officer approached Hains' residence, his landlord came out of the house and told the officer to be careful because Hains was "acting crazy." Hains then invited the officer into his residence. At the time, Hains was very upset and told the officer about how he got into an argument with his landlord. When the officer asked Hains whether he had any weapons in the house, Hains vaguely confirmed that he did.

Because of Hains' condition, which the officer thought may have been the result of alcohol consumption or a prior head injury that he knew Hains had suffered, the officer left to speak with the landlord again. The landlord stated that Hains had a shotgun in the house, so the officer returned to the door and Hains invited him back into the residence. While speaking with Hains, the officer saw a shotgun laying on the ground next to the chair where Hains was seated. He then secured the shotgun and took it outside. He could tell right away that the barrel had been sawed off and the serial number was obliterated.

A task force officer with the Bureau of Alcohol, Tobacco, Firearms and

Explosives examined the shotgun recovered from Hains' residence and determined that it had a barrel length of less than 18 inches. A search of the National Firearm Registration and Transfer Record showed that Hains did not have a short-barreled shotgun registered to him, nor were there any records of the firearm in the database.

DATED this 13th day of February, 2018.

KURT G. ALME  
United States Attorney

/s/ John D. Sullivan  
JOHN D. SULLIVAN  
Assistant U.S. Attorney